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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/853,839	05/11/2001	Marcio Cravo de Almeida	12971-002001	6450
26161	7590	06/27/2005	EXAMINER	
FISH & RICHARDSON PC 225 FRANKLIN ST BOSTON, MA 02110			LEZAK, ARRIENNE M	
			ART UNIT	PAPER NUMBER
			2143	

DATE MAILED: 06/27/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/853,839

Applicant(s)

CRAVO DE ALMEIDA ET AL.

Examiner

Arrienne M. Lezak

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 19-44 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 19-44 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 5/01, 9/02, 12/02
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_

## **DETAILED ACTION**

### ***Election/Restrictions***

Applicant's election without traverse of Group 2, (Claims 19-44) in the reply filed on 18 April 2005 is acknowledged.

### ***Claim Rejections - 35 USC § 112***

1. Claims 19, 21, 26, 28, 29, 31, 32, 34, 39, 41, 42 & 44 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Specifically, Regarding Claims 19 & 32, Examiner notes that the term "machine" is indefinite in this context and suggests changing the same to "computer". Regarding Claims 21, 26, 28, 29, 31, 34, 39, 41, 42 & 44, Examiner notes that the term "natural" in relation to language is indefinite and suggests changing the same to "English". For purposes of examination, Examiner will interpret the same to be "English language".
2. Claims 33-35 include language indicating "the processor", wherein there is insufficient antecedent basis for the same. Examiner suggests inserting language inclusive of "a processor" into Independent Claim 32.

### ***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

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A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4. Claims 19 & 32 are rejected under 35 U.S.C. 102(e) as being anticipated

by US Patent Pub. US 2001/0027470 A1 to Ulmer.

5. Regarding Claims 19 & 32, Ulmer discloses a method and computer readable medium comprising:

automatically and repeatedly receiving electronic mail messages that include information related to remotely collected data indicative of a performance of a machine, the electronic mail messages complying with a standard electronic mail messaging protocol, (paragraphs #0036-0038, 0040, 0056, 0059, 0063-0073 & 0097), and

automatically analyzing the information to determine the performance of the machine, (paragraph #0036).

Thus, all the elements and claim limitation of Claims 19 & 32 are found to be unpatentable over the teachings of Ulmer.

### ***Claim Rejections - 35 USC § 103***

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which

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said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 20-23, 26, 28-31, 34, 35, 39 & 41-44 are rejected under 35 U.S.C. 103(a) as being unpatentable over further consideration of the teachings of US Patent Pub. US 2001/0027470 A1 to Ulmer.

8. Regarding Claims 20 & 33, Ulmer is relied upon for those teachings disclosed herein. As noted above, Ulmer discloses the capture and transmission of performance information, (paragraph #0036), via email, (paragraph #0038) to the support-service provider. Ulmer does not specifically indicate the analysis component extracting the information exclusively from the electronic mail messages; however, it would have been obvious to one of ordinary skill in the art at the time of invention by Applicant to extract information from any remote customer transmission for analysis purposes at the support-service provider's site within a system dedicated to providing remote support services wherein any information transmitted from the remote customer could obviously be relevant and necessary to proper system performance analysis. Therefore, Claims 20 & 33 are found to be unpatentable over considerable consideration of the teachings of Ulmer.

9. Regarding Claims 21, 26, 28-31, 34, 39 & 41-44, Ulmer is relied upon for those teachings disclosed herein. Ulmer further discloses a graphical display, (per pending Claims 30 & 43), (paragraph #0059) and generating a [English language] report based on the analysis, (per pending Claims 21, 26, 34 & 39), (paragraph #0003, 0059, 0097 & 0101), wherein said report would obviously need to be in a maximally universally understood language, (i.e.: English), for

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comprehension by the greatest amount of individuals. Additionally, the use of language enhancements, (per pending Claims 28, 29, 41 & 42), and hyperlinks, (per pending Claims 31 & 44), in word processing and email programs is well-known in the art as an obvious means of accessing and emphasizing matter within written instruments, wherein the use of bold, italicized, colored, underlined and various font size typeface and links to other web pages/databases is not patentably distinct, (please see McGregor '360 noted herein below). Therefore, Regarding Claims 21, 26, 28-31, 34, 39 & 41-44 are found to be unpatentable over considerable consideration of the teachings of Ulmer.

10. Regarding Claims 22 & 35, Ulmer is relied upon for those teachings disclosed herein. Ulmer further discloses generating an electronic mail message that includes the report and transmitting the electronic mail message over a network, (paragraph #0038). Therefore, Claims 22 & 35 are found to be unpatentable over considerable consideration of the teachings of Ulmer.

11. Claims 23-25, 27, 36-38 & 40 are rejected under 35 U.S.C. 103(a) as being unpatentable over the combined teachings of US Patent Pub. US 2001/0027470 A1 to Ulmer and US Patent Pub. US 2002/0173997 A1 to Menard.

12. Regarding Claims 23-25, 27, 36-38 & 40, Ulmer is relied upon for those teachings disclosed herein. Though Ulmer teaches analyzing time ordered data collection to determine the performance of the machine, (Ulmer - paragraph #0036 & 0063-0073), Ulmer does not specifically disclose wherein analyzing the collected data includes comparing at least some of the collected data with a corresponding threshold value to determine whether the performance

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measurements are within a range of acceptable values. Menard clearly teaches analysis of data based on a threshold comparison, (per pending Claims 23, 25, 36 & 38), (Menard - Abstract, paragraphs #0010-0017 & 0057-0059), and performance reports obviously inclusive of performance-based information, (i.e.: threshold/measurement value) (per pending Claims 24, 25, 27, 37, 38 & 40), (Menard – paragraphs #0013, 0037 & 0057), and wherein analyzing and selecting from the collected data obviously includes determining the number of performance measurements that are within the range of acceptable values, (per pending Claims 25 & 38), (Menard – paragraph #0057).

13. It would have been obvious to one of ordinary skill in the art at the time of invention by Applicant to incorporate the threshold analysis from Menard into the remote support service system of Ulmer as a new means by which to improve business performance and increase reliability within a geographically distributed system, (Menard – paragraph #0002). Specifically, Examiner notes that both systems gather, transmit, analyze and report remote system performance information wherein various analysis techniques would have been obvious to incorporate therein or combine therewith. Therefore, Claims 23-25, 27, 36-38 & 40 are found to be unpatentable over the combined teachings of Ulmer and Menard.

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure:

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US Patent Pub. US 2002/0026360 A1 to McGregor.

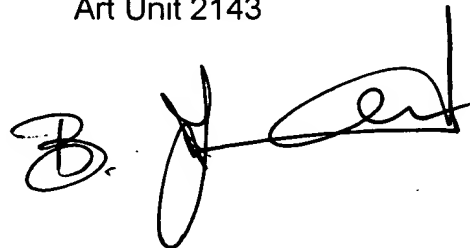
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Arrienne M. Lezak whose telephone number is (571)-272-3916. The examiner can normally be reached on M-F 8:30-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David A. Wiley can be reached on (571)-272-3923. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Arrienne M. Lezak  
Examiner  
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AML

A handwritten signature in black ink, appearing to read 'Bunjob Jaroenchonwanit', with a stylized flourish at the end.

**BUNJOB JAROENCHONWANIT**  
**PRIMARY EXAMINER**